

P15056

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

David S. DeLORENZO, et al.

Serial No.: 10/606,514

Group Art Unit: 2125

Filed: June 25, 2003

Examiner: S. Shechtman

FOR: METHOD AND APPARATUS FOR MEMORY BANDWIDTH  
THERMAL BUDGETTING**RESPONSE TO OFFICE ACTION**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of the communication mailed October 5, 2006 in connection with the above-identified application. Applicants respectfully traverse the requirement stated therein for the following reasons.

Applicants timely filed a **REQUEST FOR REHEARING UNDER 37 C.F.R. § 41.52** on August 29, 2006. Accordingly, the Examiner lacks jurisdiction to take any action in this case. In accordance with 37 C.F.R. § 1.304, applicants have two months from the date that the Board acts on applicants' Request for Rehearing to file a notice of appeal to the CAFC or commence a civil action:

***37 CFR 1.304. Time for appeal or civil action.***

\*\*&gt;

(a)(1)The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the

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decision is filed within the time period provided under § 41.52(a), § 41.79(a), or § 41.127(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request.

Because the Board has not yet acted on applicants' Request for Rehearing, the Examiner's office action is premature. Applicants note that the PAIR system has applicants' request identified as a Request for Oral Hearing, which is incorrect (and possibly a reason that the Board has not acted to date).

Out of an abundance of caution and to avoid possible abandonment of the case, applicants have appended a proposed set of claims suitable for an Examiner's amendment should there be any issue with the foregoing.

In view of the foregoing, favorable reconsideration and withdrawal of the action is respectfully requested. Early notification of the same is earnestly solicited. If there are any questions regarding the present application, the Examiner and / or the Board is invited to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

November 6, 2006

Date

/Paul E. Steiner/

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